IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15560 of 2004

Between:

B. Gangamma W/o B. Subbarayudu
R/o3/243, Govindapeta, Puttaparthi Mandal, Ananthapur District

..... PETITIONER

AND

1 The Joint Collector, Ananthapur, Ananthapur District
2 The Mandal Revenue Officer, Puttaparthi Mandal, Puttaparthi-I Village, Ananthapur District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or driection more particularly one in the nature of WRit of Mandamus declaring the action of the respondents in not supplying the essential commodities to the petitioner fair price shop in Puttaparthi Shop-I of Puttaparthi Mandal, Ananthapur Distrct, without assigning any reason is illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently direct the respondnets to supply essential commodities to the petitioner fair price shop forthwith

Counsel for the Petitioner:MR.K.SRINIVAS

Counsel for Respondents 1 & 2: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following Order:

The petitioner is an authorised dealer of a Fair Price Shop. According to the petitioner, the authorisation issued in her favour is subsisting and the same is neither suspended nor cancelled as on today. It is alleged that in spite of the fact that the authorisation is subsisting, the respondents failed to supply the essential commodities for distribution to the card-holders. Hence, this writ petition challenging the alleged action of the respondents in not supplying the essential commodities for distribution to the card-holders.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

Even assuming that the proceedings under Section 6-A of the Essential Commodities Act, 1955 or any other enquiry with regard to the alleged irregularities in distribution of the essential commodities are pending against the dealer, the question is whether the authorities can refuse to supply the essential commodities to the dealer without either suspending or cancelling the authorisation.

This issue has been considered by a Full Bench of this Court in OLETI TIRUPATHAMMA v. DISTRICT SUPPLY OFFICER (CITY), VISAKHAPATNAM AND OTHERS and while concluding that in such circumstances the proceedings under Article 226 of the Constitution of India are maintainable, it has been held as under:

> The High Court while exercising its jurisdiction under Article 226 of the Constitution of India, acts sentinel qui vive and thus it has to protect the citizen from arbitrary and capricious action of the executive. If the licensing authority themselves upon application of mind come to the conclusion that the irregularities committed by the

> fair price shop dealer would warrant suspension of his licence, it may do so. But, in our considered opinion, the authority without taking recourse to the said action, cannot, refuse to supply the essential commodities."

In the light of the ratio laid down by the Full Bench in the above decision, the writ petition is disposed of with a direction to the respondents to supply the essential commodities to the petitioner in case she is holding a valid authorisation and the same is neither suspended nor cancelled as on today. It is made clear that this shall not preclude the respondents to initiate appropriate proceedings against the petitioner if the circumstances so warrant, following due process of law.

The writ petition is accordingly disposed of. No costs.

25-10-2004

kdl

To

1 The Joint Collector, Ananthapur, Ananthapur District.

2 The Mandal Revenue Officer, Puttaparthi Mandal, Puttaparthi-I Village, Ananthapur District.

3 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad, (OUT).

4 Two C.D. Copies.